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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,508	11/10/2001	John C. Tsai	60154.302001	3381
32112	7590	06/30/2004	EXAMINER	
INTELLECTUAL PROPERTY LAW OFFICE			BROWN, KHALED	
1901 S. BASCOM AVENUE, SUITE 660			ART UNIT	
CAMPBELL, CA 95008			PAPER NUMBER	
			2877	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/053,508

Applicant(s)

TSAI, JOHN C. 

Examiner

Khaled Brown

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the c rrespondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2001.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 10 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/434,100.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a detector and a receiver including photo diodes of claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations of both a detector and said receivers include photo diodes has not been disclosed in the specification.

As best the examiner is able to ascertain the meaning of the claims the following rejections are made:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,3,5 and 11-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Osanai (US 5610686).

Re clms 1,3,5,11,12,13,14,17-20: Osanai discloses a measuring apparatus and method, comprising: using a light source for producing light beams (31); and two optical channels (31 to 33a and 31 to 33c) each including: using an interferometer comprising a reflective target (32a); a beam splitter (33a, 33c); a detector (34a, 34c); and using a receiver (Col 5 line 24).

Re clms 10,15,16: position data for external system (Col 5 line 24)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,6,7,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osanai (US 5610686) in view of Hercher (US 5812266).

Re clm 2: Osanai discloses the claimed invention as noted above including a laser light source (Osanai 31). However Osanai does not disclose that the laser light source is a

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diode. Hercher discloses that a laser light source in an interferometer should be a diode laser because it is insensitive to reflectivity (Hercher Col 8 lines 11-12). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a diode laser as the laser source in the apparatus of Osanai because it would increase insensitivity to reflectivity as suggested by Hercher.

Re clm 6: retroreflectors (Hercher 52)

Re clm 7: position sensitive quad-cell detectors (Hercher 61)

Re clm 9: photo diodes (Hercher Col 7 lines 11-12)

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osanai (US 5610686) in view of Maris et al (US 6400449).

Re clm 4: Osanai discloses the claimed invention as noted above including a single laser light source (Osanai 31). However Osanai does not disclose two light sources.

Maris et al teaches that a single light source (Maris et al Fig 1b) can be replaced by two light sources (Maris et al Fig 1c) because it increases contrast. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to replace the single light source of Osanai with two light sources because it would increase contrast as taught by Maris et al.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Linker et al 5496999, Erickson 3601490, Ohzeki 5925956, Sogard 5784166 and Tsai 6316779.

Note: No IDS has been filed in this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khaled Brown whose telephone number is 571-272-2411. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KB
June 25, 2004

Frank Font
Supervisory Patent Examiner
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